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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,074	02/21/2002	Heinz Focke	Q68394	9105

7590 12/19/2003

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EXAMINER

MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

eb7

Office Action Summary	Application No.	Applicant(s)	
	10/069,074	FOCKE ET AL.	
	Examiner	Art Unit	
	Barbara J. Musser	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the claims require cigarette packs to be made or only requires packages of some type to be made. It is unclear whether the glue must be cold or not, and what is meant by a cold glue.

Regarding claim 1, it is unclear where the claim ends, as there are periods at both lines 10 and 13.

Claim 4 recites the limitation "the non-folded material web" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al.(U.S Patent 5,762,186) in view of Froehlig(U.S. Patent 3,862,713) and Dexter(U.S. Patent 6,627,033).

Focke et al. discloses a method of forming cigarette packages wherein a web of paper used to fold and form cigarette packs has adhesive thereon to bond the paper to form the desired shape.(Figures 1 and 6; Col. 3, ll. 15-31) The reference does not disclose using a contact adhesive wherein the adhesive only bonds to itself. Froehlig discloses a method of making a package wherein a flat layer has an adhesive which only bonds to itself coated on certain areas so that the adhesive contacts itself when the sections are joined together forming the package.(Col. 2, ll. 20-31) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an adhesive which only bonds to itself in Focke et al. since this would allow application of the adhesive at a different time from immediately before formation of the package.(Col. 1, ll. 31-34)

Although the references do not specifically state the continuous web is fed from a roll, one in the art would appreciate that continuous webs of paper typically come from rolls. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the adhesive to the web so that it would not contact itself on the roll since if it contacted itself it would bond and since Dexter discloses it is known to apply contact adhesive to webs on rolls so that the adhesive does not contact itself on the roll.(Figure 14)

Regarding claim 3, one in the art would appreciate that if the adhesive on one side of the web were not offset laterally with respect to the adhesive on the other side of the web, the lines of adhesive would contact and bond, destroying the usefulness of the web and would offset the adhesives on different sides for that reason.

Regarding claim 4, Focke et al. discloses Z-folding to form a double layered base strip.(Col. 1, ll. 57-60; Figure 10) One in the art would appreciate that for the folds to remain attached to one another, the adhesive on the folds would have to line up when the folds were brought into contact with one another.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Miles et al.(U.S Patent 4,770,320).

The references cited above do not disclose coating the web to prevent the adhesive from bonding to it. Miles et al. discloses applying a release coating to a paper substrate to prevent it from bonding to an adhesive when it was not desired to bond to the adhesive.(Col. 2, ll. 48-57) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a release coating to portions of the web not containing the adhesive since this would prevent the adhesive from accidentally bonding to them(Col. 2, ll. 48-57) and this would allow the use of a stronger adhesive.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Anderson(U.S Patent 3,804,235).

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The references cited above do not disclose applying a revenue stamp or that the stamp and its corresponding location on the cigarette package contain the contact adhesive. Anderson discloses revenue stamps are required for items such as cigarettes.(Col. 1, ll. 21-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a revenue stamp to a cigarette container since such are required.(Col. 1, ll. 21-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a contact adhesive on both the stamp and its corresponding location on the cigarette package contain the contact adhesive since this would prevent the stamp from sticking to anything else prior to placement on the cigarette package.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is **(571) 272-1222**. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

KPM

BJM



RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700